IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

Crl.Rev.Pet.No. 1582 of 2007()

AGAINST THE ORDER DATED 15/03/2007 IN CMP 359/2007 IN CC.278/2006 of JUDICIAL FIRST CLASS MAGISTRATE-II, KASARAGOD

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REVN. PETITIONER:

ACHAMMA, AGED 41 YEARS,
VENMIALIL HOUSE, PALAMATTOM,
KURUMBANADOM, CHANGANASSERY,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE

RESPONDENTS:

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1. K.V. DAMODARAN, AGED 53 YEARS, S/O. LATE K.V. SANKARAN, CHALLAMKULAM HOUSE, CERAMICS ROAD, THERUVATH, THALANGARA VILLAGE, KASARAGOD DISTRICT.

2. STATE, REP. BY GOVERNMENT PLEADER AND PUBLIC PROSECUTOR HIGH COURT OF KERALA.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 11/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 1582 OF 2007

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Dated this the 11th day of April 2007

O R D E R

The revision petitioner is the accused in C.C. No. 278/2006 who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The order under challenge is the one dismissing the application filed under Section 311 Cr.P.C. The court below has noted that the counsel for the accused reported "no cross" to the proof affidavit filed by the complainant. It is submitted that the counsel representing counsel for the revision petitioner has in fact sought for time to cross examine the complainant. But I find that the court below has noted that the matter has been posted repeatedly and the attempt of the accused was only to drag on the proceedings.

2. All the same, in the interest of a complete adjudication in the matter, the order of the court below is set aside, on depositing a cost of Rs.3,000/- (Rupees three thousand only) before the court below within one month from today onwards.

On deposit of costs the court below shall permit the revision petitioner to cross examine the complainant and dispose of the case on merits. The revision petitioner shall appear before the Judicial First Class Magistrate-II, Kasaragod on **13.04.2007.**

The Crl.R.P is allowed accordingly.

K.R. UDAYABHANU, JUDGE.

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